



Town of Lexington

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GRANT OF SPECIAL PERMIT 4-6 ROBINSON ROAD

Date of Application: October 23, 2013
Dates of Hearing: December 11, 2013
January 8, 2014
Date of Decision: January 8, 2014
Date Filed: January 15, 2014

APPLICATION INFORMATION

The development site is comprised of 4 and 6 Robinson Road (Lots 137 and 138 of Assessor's Map 83), owned by Fatomeh Carroll and Carmen De La Cruz, respectively. The Applicant is North Shore Construction and Development, Incorporated, of 215 Salem Street, Woburn, MA.

The application describes and the plans depict two existing parcels, containing approximately 4 acres, to be combined and developed into a Balanced Housing Development comprised of twelve units in six structures served by a common driveway, under the provisions of §135-6.9 of the Zoning Bylaw. In accordance with the Balanced Housing Development standards all units are subject to gross floor area and impervious surface coverage limitations. The plan preserves approximately 2.5 acres of wooded area as open space, including a pathway and play area.

DECISION

The Planning Board hereby determines that the subject property is a proper parcel to be developed as a Balanced Housing Development, as described in §135-6.9.3 of the Zoning By-Law and that the submitted material and proposed development meets all requisite criteria for such approval. It therefore **GRANTS** a Special Permit for the development in accordance with the plans, terms, and conditions stated below.

FINDINGS & DETERMINATIONS

The plans and other submission material were reviewed by the Planning Board, and the Engineering and Planning staff. Throughout its deliberations, the Board was mindful of the statements of the applicants and their representatives, and the comments of the public, all as submitted or made at the public hearing.

The Planning Board finds and determines that the proposed development meets the criteria, objectives, and standards set forth in §135-9.4.2. Beyond those standards, the Planning Board must also determine that the proposed development is consistent with standards and criteria specific to those for a special permit residential development, enumerated in §135-6.9.19 of the Zoning By-Law. The Planning Board has considered all of these criteria and is imposing conditions on its approval.

Specific Findings & Determinations, per §135-6.9.19

The Planning Board grants the Special Permit for a Balanced Housing Development because it has determined that the proposed development is consistent with the standards expressed in §135-6.9.19 that are applicable to this project:

1. **Open Space.** The proposed development includes ±121,629 SF of open space, exceeding the Zoning Bylaw's open space requirement of 33%. The open space will increase the visual appearance of the development, and is readily accessible and usable to its future residents.
2. **Building Disposition.** The proposed dwellings have been sited in such a manner to create complementary relationships with each other as well as their surroundings. The Applicant provided renderings of the proposed elevations to the Board at the public hearing.
3. **Visual Impacts.** By siting the dwellings within the site, amidst the trees, the proposed development is designed to screen and minimize any negative impacts that might affect abutters.
4. **Connectivity.** While this site does not afford the Town an opportunity to enhance its system of foot or bicycle paths, a connection to Royal Circle was explored. The Applicant proposes a circuit trail through the open space, connecting the residences to the open space and play area.
5. **Multi-Family Building Design.** By creating twelve new townhouse units in six structures the proposed development is addressing identified housing needs within the community.
6. **Common Facilities.** The Applicant has acknowledged its responsibility to create a Home Owner's Association, which assigns responsibility for the operation and maintenance of the open space, the common driveway and its related infrastructure, notably the drainage system and snow and ice clearing. The decision is conditioned to ensure this.
7. **Multi-modal Access.** The Board determined that this is not applicable to this project.
8. **Sustainability.** As a Balanced Housing Development the project generally reduces its development impact within the tract when compared to its conventional subdivision counterpart, particularly as it relates to land disturbance and tree removal. In addition to this, the Applicant proposes to use acoustic windows on the facades that facing Interstate 95, while the units themselves are projected to earn a 5+ star energy rating.

WAIVERS

All development approvals of the Board are subject to the standards and requirements contained within the Development Regulations, unless expressly waived below. Sections 175-51 through 55 of the Board's *Regulations* detail the specific post-approval and construction related requirements that must be adhered to and are incorporated in this decision by reference.

<i>Citation(s)</i>	<i>Required standard</i>	<i>Explanation</i>
135-6.9.8	Impervious Surface Standards	Due to the unique challenges of the site, the Board authorizes the inclusion of up to an additional 4,000 SF of impervious surface coverage (allowed total of 36,176 SF).
175-55D(6)(b)	Issuance of Certificate of Occupancies	As some dwellings will be complete prior to the completion of the entire development, the Board waives, when provided surety, the need to complete development before a Certificate of Occupancy may issue

TERMS & CONDITIONS OF APPROVAL

General Terms

1. The entire tract of land and buildings to be constructed may not be used, sold, transferred, or leased except:
 - a. As granted by this Decision;
 - b. As shown on the Definitive Site Development Plan, referenced above; and
 - c. In accordance with subsequent approved plans or amendments to this Decision.
2. If any amendment is sought to this Decision all relevant plans and information must be submitted as required by the applicable rules.
3. The Town of Lexington is not responsible for the operation or maintenance of the proposed common driveway, including waste management and snow and ice removal. The Applicant's (or its successors') obligations resulting from the legal restrictions and requirements imposed on each homeowner, at its expense, is responsible for the maintenance and the associated infrastructure of the driveway, including waste management and snow and ice removal.
4. No site preparation work or construction may begin until the Planning Department has confirmed that the following conditions have been satisfied:
 - a. The approved perimeter Limit of Work (LOW) line is clearly marked with construction fencing, hay bales, silt fencing, or approved substitute, as appropriate. Construction activity outside the LOW is strictly prohibited, except to allow for minor landscaping activities when approved by the Planning Department in advance. All protective fencing and LOW lines must be maintained until all construction is complete.
 - b. Trees slated for preservation are protected from damage or loss by construction activities through the use of protective fencing or barricades. These controls must be located from the trunk of all preserved trees at a distance of five times the diameter of the trunk.
5. No work, including site preparation, land disturbance, construction, and redevelopment, may begin unless and until pollution prevention, erosion and sediment controls are in place. If and when applicable, the Stormwater Pollution Plan required by the National Discharge Elimination System Construction General Permit Program, must be in use until the site is fully stabilized.
6. Hours of construction. No construction activity on the property which causes noise, vibrations, glare, dust, debris or other detrimental impact, and is perceptible on, or affects, any adjacent lots, may take place prior to 7:00 a.m. or after 7:30 p.m.
7. This Decision is not intended to interfere with, abrogate or annul any other local bylaw, rule or regulation, statute, or other provision of law.

Special Conditions

1. The Site Construction Plan sheet must be recorded with the decision.
2. Upon the conclusion of the appeal period for the Special Permit, the applicant must combine the two parcels comprising the site. The Applicant may file an Approval Not Required Plan or, if applicable, an 81-X. Proof of combination must be shown to the Planning Department before construction may begin.

GRANT OF SPECIAL PERMIT

4-6 ROBINSON ROAD

January 15, 2014

Page 4 of 6

3. Vehicular parking along the common driveway within the site is strictly prohibited.
4. Signage for the proposed trail must be included at each of the three trailheads.
5. The proposed trail is intended to be field located, but should be close to the location shown on the plans. Large deviations may require Board action.
6. Per the Zoning Bylaw, both the development and the proposed units are regulated by the Special Permit as detailed in the following tables.

Development Standards (Maximums)

Gross Floor Area	Impervious Surface
32,624 SF	36,176 SF

Limitations on Unit Size, per §135-6.9.7

Unit No.	Maximum GFA	Unit Type
1	2,273 SF	2,700 SF Unit
2	2,289 SF	2,700 SF Unit
3	2,975 SF	Not regulated
4	2,975 SF	Not regulated
5	2,273 SF	2,700 SF Unit
6	2,289 SF	3,500 SF Unit
7	2,975 SF	Not regulated
8	2,975 SF	Not regulated
9	2,900 SF	Not regulated
10	2,900 SF	Not regulated
11	2,900 SF	3,500 SF Unit
12	2,900 SF	3,500 SF Unit

7. Every residential deed must contain the following provisions:
 - a. The construction and operation of the development is governed by a Special Permit issued by the Lexington Planning Board on January 8, 2014, a copy of which is available for inspection at the Town Clerk's Office, Town Office Building, Lexington.
 - b. The terms and conditions of this decision must be enforceable by the residential homeowners to the extent necessary to comply, including if necessary any proceeding at law or in equity against any person or persons violating or attempting to violate any such condition or restriction, either to restrain the violation or to recover damages. If the residential homeowners, or any association established by them, fail to enforce said conditions and/or restrictions, any one owner, or the Town of Lexington, may bring a proceeding at law or in equity against any person, persons, or association in violation

thereof to enforce compliance with said conditions and/or restrictions. Each deed or any association instrument, as applicable, must contain this provision.

- c. All deed conveyances must state the maximum gross floor area and impervious surface limits associated with the unit, subject to the prior approval of the Planning Department staff.
8. No building permit may be issued for new construction until the Planning Department indicates that Town counsel has approved the final form of the following documents:
 - a. The grant of utility maintenance easements; and
 - b. The homeowner's association (or similar entity as described above), including the operation and maintenance responsibilities for the private stormwater facilities.
9. No certificate of occupancy permit may be issued for any new dwelling until the Planning Department indicates that:
 - a. The documents referred to Special Condition 8 have been recorded.
 - b. The final grading and landscaping of the parcel is completed, as demonstrated by an as-built plan. Provided, however the Planning Department may accept security sufficient to ensure the performance of this condition, in accordance with §175-56B(9); and
 - c. The DPW has received the sewer and water tie-in information on the unit for which a CO is sought; and
 - d. The record drawings (as-builts) of the sewer and water mains have been provided to the Department of Public Works (DPW), unless waived, in writing, by the DPW Director.

RECORD OF VOTE

The following members of the Planning Board vote to grant a special permit, subject to the above-stated terms and conditions:

Copy of Decision to:

Applicant (by Certified Mail)
Board of Health
Conservation Commission
Police Chief
Director of Public Works

Town Clerk
Building Commissioner
Fire Chief
Town Assessor
Revenue Officer